



AN ACT CLARIFYING MEDICAL DIRECTION FOR EMERGENCY MEDICAL SERVICES; CLARIFYING THE PROCEDURES FOR HANDLING COMPLAINTS RELATED TO PREHOSPITAL AND INTERFACILITY EMERGENCY CARE; AMENDING SECTIONS 50-6-104, 50-6-201, 50-6-203, 50-6-302, 50-6-317, AND 50-6-323, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-6-104, MCA, is amended to read:

"50-6-104. Interdepartmental cooperation required. The department of public health and human services, ~~the department of justice, the board of medical examiners,~~ and other interested departments or divisions shall develop in writing a mutually agreeable plan of cooperation so that governmental ~~effort will~~ efforts are not be duplicated and governmental resources ~~will be~~ are applied on a reasonable priority basis."

Section 2. Emergency medical care standards -- review process. (1) The board of medical examiners shall establish patient care standards for prehospital and interfacility emergency medical treatment and transportation.

(2) (a) Complaints involving prehospital care, interfacility care, or the operation of an emergency medical service, as defined in 50-6-302, must be filed with the board and reviewed by a screening panel pursuant to 37-1-307.

(b) If a complaint is initially filed with the department of public health and human services, the department shall refer the complaint to the board for review by a screening panel.

(3) (a) When a complaint involves the operation or condition of an emergency medical service, the screening panel shall refer the complaint to the department for investigation as provided in 50-6-323.

(b) When a complaint involves patient care provided by an emergency medical technician, the screening panel shall:

(i) refer the complaint to the board for investigation as provided in 37-1-308 and 50-6-203; and

(ii) forward to the department the complaint and the results of the screening panel's initial review as soon as the review is completed.

(c) When a complaint involves a combination of patient care and emergency medical service matters, the screening panel shall refer the complaint to both the department and the board for matters that fall within the jurisdiction of each entity.

(4) For a complaint involving patient care, the board shall:

(a) immediately share with the department any information indicating:

(i) a potential violation of department rules; or

(ii) that the existing policies or practices of an emergency medical service may be jeopardizing patient care; and

(b) notify the department when:

(i) a sanction is imposed upon an emergency medical technician; or

(ii) the complaint is resolved.

(5) For a complaint involving an emergency medical service, the department shall:

(a) immediately share with the board any information indicating:

(i) a potential violation of board rules; or

(ii) that the practices of an emergency medical technician may be jeopardizing patient care; and

(b) notify the board when:

(i) a sanction is imposed upon an emergency medical service; or

(ii) the complaint is resolved.

Section 3. Section 50-6-201, MCA, is amended to read:

"50-6-201. Legislative findings -- duties of board. (1) The legislature finds and declares that prompt and efficient emergency medical care of the sick and injured at the scene and during transport to a health care facility is an important ingredient necessary for reduction of the mortality and morbidity rate during the first critical minutes immediately after an accident or the onset of an emergent condition and that a program for emergency medical technicians is required in order to provide the safest and most efficient delivery of emergency care.

(2) The board has a duty to ensure that emergency medical technicians provide proper treatment to patients in their care."

Section 4. Section 50-6-203, MCA, is amended to read:

"50-6-203. Rules. (1) The board, after consultation with the department of public health and human services, ~~the department of justice,~~ and other appropriate departments, associations, and organizations, shall adopt rules of the board implementing this part, including but not limited to:

- (a) training and ~~certification~~ licensure of emergency medical technicians; ~~and~~
- (b) the administration of drugs by emergency medical technicians; and
- (c) the handling of complaints involving patient care provided by emergency medical technicians.

(2) The board may, by rule, establish various levels of emergency medical technician ~~certification~~ licensure and shall specify for each level the training requirements, acts allowed, ~~recertification~~ relicensure requirements, and any other requirements regarding the training, performance, or ~~certification~~ licensure of that level of emergency medical technician that it considers necessary, subject to the provisions of 37-1-138."

Section 5. Section 50-6-302, MCA, is amended to read:

"50-6-302. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Aircraft" has the ~~same~~ meaning ~~given~~ provided in 67-1-101. The term includes any fixed-wing airplane or helicopter.

(2) (a) "Ambulance" means a privately or publicly owned motor vehicle or aircraft that is maintained and used for the transportation of patients.

(b) The term does not include:

- (i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or
- (ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal aviation administration and that offer no special medical services or provide only transportation to patients or persons at the direction or under the supervision of an independent physician.

(3) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

~~(3)~~(4) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(4)~~(5) "Emergency medical service" means a prehospital or ~~interhospital~~ interfacility emergency medical

transportation or treatment service provided by an ambulance or nontransporting medical unit that is licensed by the department.

~~(5) "Medical control" means the function of a licensed physician in providing direction, advice, or orders to an emergency medical service provider.~~

(6) "Nontransporting medical unit" means an aggregate of persons who are organized to respond to a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting medical units provide any one of varying types and levels of service defined by department rule but may not transport patients.

(7) "Offline medical direction" means the function of a board-licensed physician or physician assistant in providing:

(a) medical oversight and supervision for an emergency medical service or an emergency medical technician; and

(b) review of patient care techniques, emergency medical service procedures, and quality of care.

(8) "Online medical direction" means the function of a board-licensed physician or physician assistant or the function of a designee of the physician or physician assistant in providing direction, advice, or orders to an emergency medical technician for prehospital and interfacility emergency care as identified in a plan for offline medical direction.

~~(7) "Offline medical director" means a physician who is responsible and accountable for the overall medical direction and medical supervision of an emergency medical service and who is responsible for the proper application of patient care techniques and the quality of care provided by the emergency medical services personnel. The term includes only a physician who volunteers the physician's services as an offline medical director or whose total reimbursement for those services in any 12-month period does not exceed \$5,000.~~

~~(8)~~(9) (a) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(b) The term does not include an individual who is nonambulatory and who needs transportation assistance solely because that individual is confined to a wheelchair as the individual's usual means of mobility.

~~(9)~~(10) "Person" means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a governmental agency other than the United States."

Section 6. Section 50-6-317, MCA, is amended to read:

"50-6-317. Liability protection. (1) A physician, physician assistant, or registered nurse licensed under the laws of this state who ~~gives instructions for medical care~~ provides online medical direction to a member of an emergency medical service without compensation or for compensation not exceeding \$5,000 in any 12-month period and whose professional practice is not primarily in an emergency or trauma room or ward is not liable for civil damages for an injury resulting from the instructions, except damages for an injury resulting from the gross negligence of the physician, physician assistant, or nurse, if the instructions given by the physician, physician assistant, or nurse are:

(a) consistent with the protocols and the ~~medical control~~ offline medical direction plan approved by the department in licensing the emergency medical service; and

(b) consistent with the level of ~~certification or licensure~~ of the emergency medical services personnel instructed by the physician, physician assistant, or nurse.

(2) ~~An offline medical director~~ An individual who volunteers or who is reimbursed \$5,000 or less in any 12-month period for providing offline medical direction is not liable for civil damages for an injury resulting from the performance of ~~his~~ the individual's offline medical direction duties, except damages for an injury resulting from the gross negligence of the ~~director~~ individual."

Section 7. Section 50-6-323, MCA, is amended to read:

"50-6-323. Powers and duties of department. (1) The department has general authority to supervise and regulate emergency medical services in Montana.

(2) ~~The~~ Upon referral by a screening panel pursuant to [section 2], the department shall ~~receive and review and may~~ investigate complaints relating to the operation of any emergency medical service, ~~including complaints concerning:~~

(3) In investigating a complaint, the department may review:

(a) ~~patient~~ the type and condition of equipment and procedures used by an emergency medical service to provide care provided at the scene or during prehospital or interfacility transportation by an emergency medical service;

(b) the condition of any vehicle or aircraft used as an ambulance; ~~or~~

(c) ~~individual~~ general performance by an emergency medical service ~~provider; and~~

(d) the results of any investigation conducted by the board concerning patient care by an emergency medical technician who was, at the time of the complaint, providing care through the emergency medical service that is the subject of a complaint under investigation by the department.

~~(3)~~(4) Upon completion of an investigation as provided in subsection ~~(2)~~ (3), the department shall take appropriate action, including sharing information regarding complaints with the board as provided in [section 2] and the institution of initiating any necessary legal proceedings; as authorized under this part.

~~(4)~~(5) In order to carry out the provisions of this part, the department shall prescribe and enforce rules for emergency medical services. Rules of the department may include but are not limited to the following:

(a) the classification and identification of specific types and levels of prehospital and ~~interhospital~~ interfacility medical transportation or treatment services;

(b) procedures for issuing, denying, renewing, and canceling licenses;

(c) minimum licensing standards for each type and level of service, including requirements for personnel, ~~medical control~~ offline medical direction, online medical direction, maintenance, equipment, reporting, recordkeeping, sanitation, and minimum insurance coverage as determined appropriate by the department; and

(d) other requirements necessary and appropriate to assure the quality, safety, and proper operation and administration of emergency medical services.

~~(5)~~(6) A rule ~~under~~ adopted pursuant to this section is not effective until:

(a) a public hearing has been held for review of the rule; and

(b) notice of the public hearing and a copy of the proposed rules have been sent to all persons licensed under 50-6-306 to conduct or operate an emergency medical service. Notice must be sent at least 30 days prior to the date of the public hearing."

Section 8. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 50, chapter 6, part 1, and the provisions of Title 50, chapter 6, apply to [section 2].

- END -

I hereby certify that the within bill,
HB 0093, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 93

INTRODUCED BY D. SANDS

BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

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